

**IN THE UNITED STATES DISTRICT COURT
FOR THE STATE OF NEW MEXICO**

**STATE OF NEW MEXICO, *ex rel.*
State Engineer**

Plaintiff,

v.

RAMON ARAGON, *et al.*,

Defendants.

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69cv07941 JEC-ACE

**RIO CHAMA STREAM SYSTEM
Rio Gallina, Section 5**

Subfile No. CHGA-005-0003

ORDER GRANTING DEFAULT JUDGMENT

THIS MATTER is before the Court on the October 20, 2002 motion (Docket No. 6908) by the plaintiff State of New Mexico, *ex rel.* State Engineer to adjudicate the water rights of Defendants **ONOFRE SANCHEZ, TOMAS SANCHEZ** and **RICHARD HARVEY** in Subfile No. CHGA-005-0003 by default order.

1. The Court has jurisdiction of the parties and the subject matter herein.
2. The State disputed the water rights claims of the above-named defendants, and the State proposed that the Court adjudicate the claims of the Defendants in subfile CHGA-005-0003 as "No Right" or without water rights.
3. The Pretrial Order for Litigation of Remaining Individual Subfiles and Water Rights Claims in Section 5 of the Rio Chama Stream System entered May 3, 2002 (Docket No. 6699) required the above-named defendants to make initial discovery disclosures to the State no later than July 30, 2002.
4. The above-named defendants failed to make the required exchange of discovery

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information by July 30, 2002.

5. At the Court's September 4, 2002 pretrial conference, the Court granted leave for the above-named defendants to make initial discovery disclosures to the State no later than September 20, 2002, and to disclose the identity of any person who may be used at trial to present expert witness testimony by October 15, 2002.

6. The Defendants failed to make initial discovery disclosures to the State by the extended deadline of September 20, 2002, and failed to disclose the identity of any persons who may be used at trial to present expert witness testimony by the extended deadline of October 15, 2002. No extensions of time were requested.

7. Under Federal Rule of Civil Procedure 16(f), if a party fails to obey a scheduling or pretrial order the Court may make such orders with regard thereto as are just, and among others, any of the orders provided in Rule 37(b)(2)(B),(C), (D).

8. The water rights of the Defendants in the above-styled and captioned cause should be adjudicated by default order as follows:

RICHARD T. HARVEY
ONOFRE SANCHEZ
TOMAS SANCHEZ

Subfile No.: CHGA-005-0003

A. NO RIGHT (Surface Water Only)

Office of the State Engineer Files No(s): NONE

Priority: NONE

Source of Water: Surface waters of the Rio Gallina, a tributary of the Rio Chama

Purpose of Use: NO RIGHT

Point of Diversion:

Ditch Name: Unnamed Ditch No. 2

Location X: 1,461,126 feet **Y:** 1,909,605 feet

New Mexico State Plane Coordinate System, Central Zone, NAD 1983

Location and Amount of Acreage:

Section 32, Township 23N, Range 01E, N.M.P.M.

Pt. SE $\frac{1}{4}$

8.5 acres

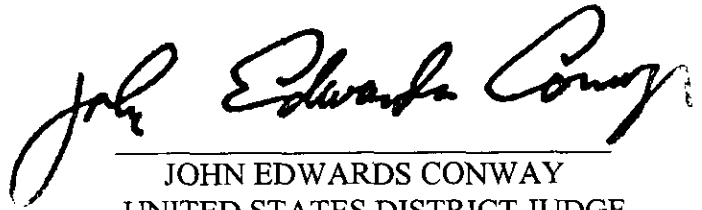
Total 8.5 acres

As shown on the attached revised Hydrographic Survey Map for Subfile No.: CHGA-005-0003


Amount of Water: NONE

IT IS, THEREFORE, ORDERED that the above-named defendants be and hereby are, adjudicated to have the water rights set out hereinabove, subject to the right of any other water rights claimant with standing to object prior to the entry of a final decree.

IT IS FURTHER ORDERED that the defendants, his or her successors, representatives, heirs and assigns, are enjoined from any diversion or use of the public surface waters of the Rio Chama Stream System, Section 3, except in strict accordance with the rights set forth herein or in other orders of the Court.


JOHN EDWARDS CONWAY
UNITED STATES DISTRICT JUDGE

Recommended for approval:


SPECIAL MASTER